

Connect America Phase II Challenge Process Form
OMB Control Number 3060-1188
FCC Form 505

Filing Entity: Shentel Communications, LLC

FRN (if applicable): **22045405**

Name of Person Filling Out Form: Ann Flowers

Mailing Address of Person Filling Out Form: 500 Shentel Way, Edinburg, VA 22824

Email Address of Person Filling Out Form: ann.flowers@emp.shentel.com

Phone Number of Person Filling Out Form: 540-984-5320

Name of Person Certifying Data within Form: Edward H. McKay

Mailing Address of Person Certifying Data within Form: 500 Shentel Way, Edinburg, VA 22824

Email Address of Person Certifying Data within Form: ed.mckay@emp.shentel.com

Phone Number of Person Certifying Data within Form: 540-984-5303

Census Block 15 Digit FIPS Code	State	Name of Entity Providing Service	PRN used to File Form 477 (if challenge being filed by the service provider)	Insert an X if you certify that this census block is served by unsubsidized broadband and voice services meeting the Commission's performance and pricing criteria.	Type of Supporting Evidence	Additional Comments	OMB Control Number 3060-1188
511650104001001	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511650104001012	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511650104001020	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511650104001022	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511650108001017	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511650108001020	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511770401001095	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511770402011059	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511770402011104	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511770402011114	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511770408003010	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511870202001062	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511870202001075	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	
511870203003017	VA	Shentel Communications, LLC	22045405	This census block is served by unsubsidized broadband services of Shentel Communications, LLC. Voice services are provided by its affiliate, Shenandoah Telephone Company, which is a rate of return carrier.	Factual Statement of Company Officer	Please also see Petition for Limited Waiver attached hereto as Appendix C	

OMB Control Number 3060-1188

<u>Accuracy and Due Diligence Certification</u>
<p>All Filers Must Fill Out</p> <p>By initialing below, I certify that all statements contained in the attached form are true and accurate to the best of my knowledge, and that I have undertaken due diligence to obtain knowledge regarding these claims.</p> <p>Certifier's Initials: EHM Date: 8/14/2014</p>

<u>Notice of Challenge Certification</u>
<p>(Served to Unserved and Unserved to Served Challengers Fill Out One of the Following Blocks - Respondents Do Not Fill Out)</p> <p>Service of Notice Successful</p> <p>By initialing below, I certify that notice of this challenge has been served on all interested parties.</p> <p>Certifier's Initials: AEF Date: 8/14/2014</p> <p>Service of Notice Unsuccessful</p> <p>By initialing below I certify that, following a good faith effort, I was unable to serve notice of this challenge on all interested parties due to lack of information regarding the address of such parties.</p> <p>Name of Party/Parties that Could Not Be Served: Certifier's Initials: Date:</p>

The certifications on this page are subject to the penalties for false statements under 18 U.S.C. 1001.

APPENDIX A

APPENDIX A
to
Shentel Communications, LLC CAF Phase II Challenge Filing
WC Docket No. 14-93; DA 14-942

FACTUAL STATEMENT

Pursuant to the challenge procedures set forth under DA 14-942, DA 13-113, and other authorities, I, Edward H. McKay, Vice President – Wireline and Engineering of **Shentel Communications, LLC** (“**Shentel Communications**”) provide this factual statement in support of Shentel Communications’ unserved-to-served challenge of 28 served and 14 serviceable census blocks identified by the Bureau’s June 30 Public Notice (DA 14-942).

I have direct knowledge of the facts set forth in this statement as the result of my responsibilities in the position of Vice President – Wireline and Engineering. In that role, I am responsible for the design of Shentel Communications’ networks, and I review company information regarding subscribers, network facilities, revenue and other information in order to satisfy various regulatory reporting and compliance obligations. I certify to the accuracy of this information, to the best of my knowledge.

This statement supports two separate Form 505s filed by Shentel Communications. The first Form 505, designated as Shentel Communications 505-1, identifies 28 census blocks which Shentel Communications “serves” (as that term is defined in the Bureau’s June 20 Public Notice, and as further explained in this paragraph). In these blocks Shentel Communications is: (1) offering unsubsidized broadband service; (2) has broadband-capable physical assets in the block; and, (3) has a current or former customer. The second Form 505, designated as Shentel Communications 505-2, identifies the 14 census blocks in which Shentel Communications has deployed broadband-capable physical assets. Shentel Communications serves these blocks with broadband service, even though it does not have current or former customers in the block.

Telephone physical assets and services in all blocks identified on each form are provided by an affiliate of Shentel Communications, Shenandoah Telephone Company, a rate-of-return ILEC providing traditional landline telephone services. In all of the census blocks identified in 505-1 and 505-2, Shentel Communications and Shenandoah Telephone Company have deployed physical facilities and offer broadband and voice services, respectively, that meet the price and performance metrics established by the Commission.

Additional evidence supporting Shentel Communications' challenge is included in Appendix B. In form Shentel Communications 505-1, Appendix B provides customer billing statements for the served census blocks. In form Shentel Communications 505-2, Appendix B consists of a waiver request for the blocks where Shentel Communications has no current or former customers, but provides services.

Thus, the information in these appendices establishes that the broadband and voice services offered in all of these blocks meet the performance and pricing metrics set forth under Commission rules. Specifically, the broadband service is provided: at speeds of at least 4 Mbps downstream and 1 Mbps upstream; with a minimum usage allowance of at least 100 GB/month; at a roundtrip latency of 100 ms or less; at a price that is reasonably comparable to rates in urban areas, which is consistent with the Commission's findings in the recent Measuring Broadband America report.¹ The voice service is offered at a price that is reasonably comparable to, or below, rates in urban areas.

¹ See *2014 Measuring Broadband America Fixed Broadband Report*; A Report on Consumer Fixed Broadband Performance in the U.S.; Office of Engineering and Technology and Consumer and Governmental Affairs Bureau at 16 (updated June 18, 2014).

APPENDIX B

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Connect America Fund

)
)
)
)
)

WC Docket No. 10-90, 14-93

**PETITION FOR LIMITED WAIVER OF
CAF PHASE II EVIDENTIARY REQUIREMENT**

Shentel Communications, LLC hereby petitions the Commission, pursuant to Section 1.3 of the Commission's rules,¹ for a limited waiver of the Wireline Competition Bureau's ("Bureau") determination that under Phase II of the Connect America Fund ("CAF") challenging parties must produce evidence of actual or former customers in a census block in order to establish that the block is "served" for purposes of determining whether the price cap incumbent local exchange ("LEC") in that area is entitled to Phase II support.

I. INTRODUCTION

The Bureau's evidentiary requirement should be waived because application of the requirement will result in the disbursement of subsidies to price cap LECs to overbuild networks already deployed by Shentel Communications, LLC, an unsubsidized competitor, and its affiliate Shenandoah Telephone Company, a rate of return carrier. The Bureau has designated as "unserved" 14 census blocks in areas where Shentel Communications, LLC has deployed physical networks assets over which it offers broadband services to the residents of those areas. Shenandoah Telephone Company, a rate of return carrier and affiliate of Shentel Communications, LLC provides voice service to residents of those areas. As such, these areas

¹ 47 C.F.R. § 1.3.

do not lack access to broadband, and are not unserved. The Commission has determined that subsidizing overbuilds in such areas is a waste of public resources and harms competition. As such, good cause exists to grant this waiver request.

II. ARGUMENT

The Wireline Competition Bureau's Public Notice dated June 20, 2014 purports to impose an evidentiary requirement that challenging parties in the CAF Phase II proceeding present evidence of current or former customers in a census block in order to challenge the Bureau's determination that the block is unserved.² As a result, in those blocks where a challenging party has deployed physical assets to provide broadband and voice service, and offers such services in that area (but has no current or former customers), the Bureau's determination will result in a designation that the block is unserved. That, in turn, will permit the price cap incumbent LEC in that area to receive CAF Phase II support to deploy facilities that will be used to overbuild and compete directly with the unsubsidized competitor that has already deployed facilities to that area.

That outcome is inconsistent with the Commission's determination that broadband subsidies should not be directed to areas where unsubsidized competitors offer service. In the 2011 Connect America Fund Order the Commission determined that it would "exclude [from CAF funding] areas where an unsubsidized competitor offers broadband service..."³ Instead, the Commission determined that CAF support should only be directed to areas that "lack Internet

² See Public Notice, Wireline Competition Bureau Provides Guidance Regarding Phase II Challenge Process, WC Docket No. 10-90, DA 14-864 at ¶ 9 (rel. June 20, 2014) (hereafter "Public Notice").

³ See *Connect America Fund*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 at ¶ 170 (2011) ("CAF Order").

access.”⁴ This decision rests upon the sound policy determination that federal subsidies should be directed to those areas where market forces have not provided sufficient incentives to deploy broadband to unserved areas. Accordingly, the Commission recognized that funding should not be directed to areas in which an unsubsidized competitor already offers service.

Concomitant to that principle is the recognition that the government should not create an uneven playing field by subsidizing the deployment of facilities in those areas where an unsubsidized competitor (relying on private capital) has already deployed facilities. The government should not be subsidizing providers to compete with unsubsidized competitors because such policies undermine competition and waste public resources. Further, such policies create a significant disincentive for broadband providers to raise private capital in order to deploy networks in unserved and underserved areas.

Good cause exists to waive the Bureau’s evidentiary requirement because the problems previously articulated by the Commission, such as avoiding the potential subsidization of overbuilds and wasting public resources, will become an unfortunate reality in many areas served by Shentel Communications, LLC absent a waiver of the rule. Shentel Communications, LLC has deployed broadband network assets, and its affiliate Shenandoah Telephone Company has deployed voice network assets (i.e., physical plant and networking equipment) in 14 census blocks that will be treated as “unserved” under Phase II if the Bureau’s evidentiary requirement is not waived. As the Commission has recognized, there may be circumstances where a provider has deployed broadband networks and is actively offering service, but does not yet have any customers.⁵

⁴ *Connect America Fund*, Order, WC Docket No. 10-90, 29 FCC Rcd 181 at ¶ 17 (2014) (citing Phase I Order, 28 FCC Rcd at 7771-72, ¶ 15).

⁵ *See Connect America Fund*, Second Order on Reconsideration, WC Docket No. 10-90, 27 FCC Rcd 4648, ¶ 13 (2012) (“[A] provider may have no customers in a particular census block, even though it offers service there.”).

That is the case with Shentel Communications, LLC in 14 census blocks where Shentel Communications, LLC and Shenandoah Telephone Company have deployed physical network assets capable of delivering broadband and voice services to prospective customers. It can generally deliver service within seven to ten days of a request, absent extraordinary measures. Further, both entities are actively marketing and advertising their services in these areas. Thus, Shentel Communications, LLC and Shenandoah Telephone Company serve these blocks with voice and broadband service and these areas clearly do not “lack access to Internet.”


The reasons that Shentel Communications, LLC cannot identify current or former customers in these areas are several. First, these are very rural areas with a low population density per census block. As a result, the number of potential customers per census block is significantly lower than in more populated urban and suburban area. Second, many of these census blocks are in areas where the income level is quite low, and residents may not have the means (or desire) to purchase broadband service. Nonetheless, Shentel Communications, LLC has deployed facilities in these areas and continues to offer services to the residents of these census blocks.

Absent a waiver, in these 14 census blocks the price cap incumbent LEC will be entitled to CAF support to deploy broadband networks alongside those network facilities already deployed by Shentel Communications, LLC and Shenandoah Telephone Company. The price cap LEC will then be in a position to leverage that subsidized network to compete directly with Shentel Communications, LLC and Shenandoah Telephone Company in these areas. That result is untenable. The Commission must not create an uneven playing field by subsidizing price cap LECs in those areas where these entities have already deployed facilities through the expenditure of private capital.

III. CONCLUSION

Accordingly, Shentel Communications, LLC respectfully requests a limited waiver of the Bureau's evidentiary rule to permit Shentel Communications to submit evidence that it serves 14 census blocks by offering broadband and voice service to such areas. Grant of this waiver would permit the Bureau to determine that these areas are "served" for purposes of CAF Phase II challenges, and that Phase II support is therefore not permitted in such areas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ann E. Flowers", with a stylized flourish at the end.

Ann E. Flowers
Associate General Counsel

August 14, 2014